

**Parent/Guardian Consent to access Medicaid
New IDEA Regulations February 2013
RI Implementation October 9, 2013**

Background

IDEA 2004 §300.154(d) required districts to obtain informed parental consent each time a family's public benefits, e.g. Medicaid, were accessed.

IDEA 2004 revised 2013 §300.154(d) requires a one-time informed consent, prior notice and annual notice:

<http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html>

New Regulations Require:

Prior Notice must be given to parents before obtaining initial consent;

Informed Written Consent obtained **one-time** from parents;

Annual Notice must be shared with parents;

Parents may revoke consent at any time.

Model OSEP Notice 6/11/13:

<http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/accmodeledwrittennotification-6-11-13.pdf>

Process: How to explain and when to notify or request parental consent

Talking Points for the Development of district specific guidance for staff implementation:

- District requests all parents sign consent to access Medicaid (not just Medicaid eligible students, so as to de-stigmatize the request)
- District follows HIPAA and FERPA, respecting confidentiality requirements, assuring parents that only staff who need to know will know if a student is Medicaid eligible
- LEAs are required per [RIGL §40-8-18](#) to use Medicaid reimbursements for the support education in the district
 - Provide specific examples of where the money goes to share with parents e.g. administrative funds go back to the school for the school to use for professional development activities
- District assures parents that FAPE will be protected (use the [RI Parental Consent Brochure](#) and/or the [DHS Memo dated April 14, 2010](#), Addendum M Medicaid Direct Services Guidebook www.dhs.ri.gov/ForProvidersVendors/LocalEducationAgency/tabid/740/Default.aspx)

Notification and Requesting Consent

- **New Students**
- Include as part of the Child Outreach Screenings, Referral, Evaluation and/or Initial Individualized Education Program (IEP) processes
 - Prior notice should be given
 - New referrals (ensure parents are aware that districts may seek reimbursement for some evaluations)
 - New Students (request consent for students with IEPs who are new to the district because parental consent **is not** transferable from one LEA to another)
 - If parents give consent, ask for a copy of their Medicaid Health Card (Rite Care, Rite Share) to obtain student's medical assistance identification number (MID)
- **Existing Students**
 - Check records for consents on file; use one-time consent form after 10/13/2013; check consent dates (you must get current one-time consent form **prior** to billing;
 - When/how to get consent
 - During review IEP meetings
 - During meetings with parents at any time (preferably with a staff member with an established relationship with parent)
 - Provide parents with a copy of the signed consent

Prior Notice and Annual Notice

Revised April 20, 2016

- Districts can use RI Medicaid Parental Consent Brochure to provide prior notice:
www.ritap.org/medicaid/idea-parental-consent-access-public-benefits-or-insurance-eg-medicaid
- Annual notice must be given each year
 - Included in the *Procedural Safeguards*
 - Included as part of a Student Handbook
 - Included as part of information shared annually with all parents of children receiving special education and/or related services
 - Included as part of a Prior Written Notice for Special Education
 - Posted on the district's web site
- District should provide annual training for Staff who will implement this regulation so that they can explain it clearly to parents (use Talking Points guidance)

RI LEAs must obtain a separate consent for seeking reimbursement for Assistive Technology (AT) Device

FAPE is not guaranteed from Medicaid for AT devices. School departments must coordinate claims for assistive technology devices with the State Medicaid Agency, Office of Health and Human Services (OHHS), to ensure that parents will not be denied a request for an AT device or incur out of pocket expenses for an AT device if the district submits a claim for the same device.

- School departments **must obtain separate parental consent for AT devices**
- The district **cannot** use federal funds to purchase the device if it plans to seek Medicaid reimbursement. State or local funds must be used in order to submit a claim for Medicaid reimbursement, this includes AT devices.
- If districts access and receive Medicaid reimbursement for an AT device, then per Medicaid rules, the AT device belongs to the child. See pages 59-60 of [LEA Direct Services Guidebook](#).

Consent for Students in Care of the Department of Children Youth and Families (DCYF)

If a district doesn't have a signed consent on file, the DCYF case worker needs to be contacted to verify parental decision-making status. If **medical decision-making rights have not** been terminated, the district may request parental consent from the parent. If **medical decision-making rights have been** terminated, the district needs to request consent from DCYF to access Medicaid funds for IDEA services from the Regional DCYF Director.

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